

**STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Thursday, May 17, 2018
9:00 a.m.
Room 105 Courthouse Annex
Cascade County Commissioners Chambers**

SUP #04-18

Subject Property Information

Name & Address of Applicant	NorthWestern Energy 11 East Park Butte, MT 59701
Name & Address of Owner	Les Duncan PO Box 1142 Great Falls, MT 59403
Geo Code:	02-3139-06-1-01-18-0000
Parcel Number:	0002805200
Existing Zoning:	Rural Residential 5 (RR-5)
Legal Description:	Section 06, Township 21 N, Range 4 E
Requested Action and Purpose:	Utility Installation, Minor
Total Land Area:	5 Acres
Adjacent Land Uses & Zoning:	North: RR5, Vacant/Undeveloped South: RR5, Vacant/Undeveloped West: RR5, Residential East: RR5, Vacant/Undeveloped
Current Land Use:	Vacant/Undeveloped land
Applicable Regulations:	Sections 7.1.1.3 and 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from NorthWestern Energy to establish a minor utility installation for a Gas Gate Station.

10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in a Rural Residential 5 (RR5) Zoned District. The proposed business is allowed in the Rural Residential 5 (RR5) District pursuant to Section 7.1.1.3 (3), which reads, "*Use permitted upon issuance of a special permit... Utility Installation, minor.*"
2. The applicant included a project description, and stated that the project will install a new transmission block valve assembly, yard piping, and major piping in a building to be constructed on site. The purpose of the project will be to add increased capacity and reliability for the natural gas distribution system in the area.

3. Les Duncan is the owner of the property.
4. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance.
5. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on May 6, 2018 and May 13, 2018. It was mailed to surrounding neighbors with certified letters on April 30, 2018. At the time of writing this report, staff has received no comments.
6. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
7. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

Applicant: The proposed gate station will not alter the traffic conditions. After construction, there maybe one or two site visits per month to inspect the site.

Staff: Few additional trips will be generated as part of utility operations, there will be occasional visits to check on equipment.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: The gate station will not endanger public health or safety. No impacts are anticipated.

Staff: This site will be a utility installation, and will not require provision of other services.

- c. Soil erosion and sedimentation.

Applicant: The gate station will not endanger public health or safety. No impacts are anticipated. NorthWestern Energy will have an environmental inspection done on the property prior to construction and will follow all requirements for stormwater.

Staff: The applicants will review the site for stormwater concerns, but will not be required to obtain a General Discharge Permit from the Department of Environmental Quality due to the size of the project.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: The gate station will not endanger public health or safety. No impacts are anticipated. NorthWestern Energy will have an environmental inspection done on the property prior to construction and will follow all requirements for stormwater.

Staff: Staff does not believe that the project will create additional hazards to the quality of water in the area.

- 3. The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: No impacts are anticipated. This project will increase the reliability of NWE's gas system in Great Falls and will provide improved service to the customers in the area.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: No impacts are anticipated. This project will increase the reliability of NWE's gas system in Great Falls and will provide improved service to the customers in the area.

Staff: Staff believes that the impact from the project will be positive, as it will actively benefit property owners in the area and will improve the prospects for future growth and development.

4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: No impacts are anticipated. NWE will work with Cascade County to ensure as little conflicts as possible.

Staff: The project, once completed, will create a minimal disturbance to the surrounding area and will improve the prospects of future growth.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: No impact is anticipated.

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: No impact is anticipated.

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: No impact is anticipated.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: No impact is anticipated.

- E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: No impact is anticipated.

- F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: No impact is anticipated.

- G. *Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

Applicant: No impact is anticipated.

- H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: No impact is anticipated.

- I. *Encourage the growth of the agricultural economy.*

Applicant: No impact is anticipated.

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: No impact is anticipated.

Staff: This project will have a positive impact on the economic growth potential of the County, which paves the way for future development that will in turn keep, and bring money back into the County. Staff does not believe that it will have a detrimental impact on tourism, agriculture, or the renewable energy sector.

GOAL 2: Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.

Objectives:

- A. Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.

Applicant: No impact is anticipated.

- B. Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.

Applicant: No impact is anticipated.

- C. Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.

Applicant: No impact is anticipated.

- D. Assure clean air, clean water, a healthful environment and good community appearance.

Applicant: No impact is anticipated.

- E. Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.

Applicant: No impact is anticipated.

- F. Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.

Applicant: No impact is anticipated.

Staff: The County Planning Division does not believe that this project will have a detrimental impact on the County's rural character and will be a boon to the historic relationship with natural resource development

through the natural gas sector. The project will not have a negative impact on agriculture or forestry, and the impact on scenery would not be significantly different than any other principal use in that zoning district. The site has not been identified as a Superfund or Brownfields site, and will help mitigate potential risks from the gas line by improving reliability.

GOAL 3: Maintain Agricultural economy

A. *Protect the most productive soil types.*

Applicant: No impact is anticipated.

B. *Continue to protect soils against erosion.*

Applicant: No impact is anticipated.

C. *Protect the floodplain from non-agricultural development.*

Applicant: No impact is anticipated.

D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: No impact is anticipated.

Staff: This project will have no impact on agriculture in the County. The soil is not listed as prime farmland, and the parcel has not been used for agricultural production.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. *Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.*

Applicant: No impact is anticipated.

B. *Promote the location of additional military missions in Cascade County.*

Applicant: No impact is anticipated.

C. *Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.*

Applicant: No impact is anticipated.

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: No impact is anticipated.

Staff: The proposed use in this location should have no negative impact on retaining the presence of the US military in Cascade County.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: No impact is anticipated.

B. Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.

Applicant: No impact is anticipated.

C. Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.

Applicant: No impact is anticipated.

D. Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.

Applicant: No impact is anticipated.

Staff: Staff agrees that this project will not have any noticeable impacts on the rural, friendly and independent lifestyle of the County. The project will provide more reliable natural gas service to properties north of Great Falls and will create potential for new and enhanced development in that area. Staff does not believe that this would have any impacts on fire prevention or educational opportunities.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: No impact is anticipated.

This Special Use Permit is consistent with the municipal and joint land use plans incorporated by the Growth Policy.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

From the application information submitted, this operation would not be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights. This is an infrastructure improvement that will provide safer and more reliable natural gas distribution and will create opportunities for growth and development in the County. Staff believes that NorthWestern Energy is acting in good faith by approaching the Planning Division for a Special Use Permit, and believes that this development would be beneficial to Cascade County. For these reasons, the Planning Division recommends approval of this Special Use Permit.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the minor utility installation for a gas gate station on the property, legally described as geocode 02-3139-06-1-01-18-0000 parcel 0002805200, be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board adopt the staff report and **approve** the Special Use Permit to allow the minor utility installation on the property, legally described as geocode 02-3139-06-1-01-18-0000 parcel 0002805200, subject to the following conditions:
 - 1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.

Attachments:

- Special Use Permit Application, Operational Statement, Site plan.
- Applicable Zoning Regulations, highlighted.

c: Ron Olsen, NorthWestern Energy